

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSEPH HOLDER, et al.,

No. C 06-2923 SBA

Plaintiffs,

ORDER

v.

[Docket No. 37]

BRUCE MCPHERSON, as California
Secretary of State, et al.,

Defendants.

This matter is before the Court on Plaintiff's Motion for Remand [Docket No. 37]. Having read and considered the arguments presented by the parties in the papers submitted to the Court, the Court finds this matter appropriate for resolution without a hearing.

IT IS HEREBY ORDERED THAT Plaintiff's Motion for Remand [Docket No. 37] is GRANTED IN PART, to the extent that it argues that the Court lacks subject matter jurisdiction over the above-captioned matter.

IT IS FURTHER ORDERED THAT Plaintiff's Motion for Remand [Docket No. 37] is DENIED IN PART, to the extent that it requests actual costs, including attorneys fees. The Court finds that while removal was legally improper, Defendants had "an objectively reasonable basis for seeking removal." *See Martin v. Franklin Capital Corp.*, 126 S. Ct. 704, 711 (2005). The Petition for Writ of Mandate ("Petition") contained a number of allegations regarding the federal Help America Vote Act of 2002 and the Federal Election Commission's Voting Systems Performance and Test Standards. These allegations were incorporated by reference into each of the Petition's nine causes of action. Considering this incorporation by reference, along with the length and complexity

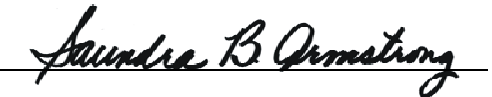
1 of the Petition, the Court finds that Defendants had an objectively reasonable basis for seeking
2 removal.

3 IT IS FURTHER ORDERED THAT the case is REMANDED to the Superior Court of the
4 State of California in and for the County of San Francisco. The clerk is directed to terminate any
5 pending matters and to close the file.

6 IT IS SO ORDERED.

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8 Dated: 7/17/06



9 SAUNDRA BROWN ARMSTRONG

10 United States District Judge
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